

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. CR 01-1438 BB

LUIS P. QUEZADA and
SABINO QUEZADA,

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER is before the Court on Defendants' *Motion to Dismiss* the Information, and the Court having reviewed the briefs of counsel, finds the motion lacks support and should be Denied.

Discussion

In an attack on the sufficiency of an Information, the allegations must be taken as true. *See United States v. Andreas*, 374, F. Supp. 402 (D. Minn. 1974). Following this legal maxim, the facts are as follows:

Defendants Luis Quezada and Sabino Quezada were in the courtroom when Judge Martha Vazquez passed sentence on their brother, Graciano Quezada. While Graciano was being transported back to the Sandoval County Detention Center,

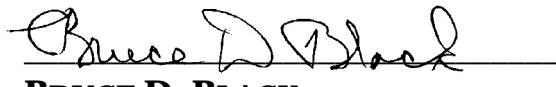
Defendants tailed the transport van. When the van sped up to get away, the Defendants sped up too, reaching 90 mph. When the van turned on its siren and emergency lights, they continued to tail it. When the van tried slowing down, they slowed down too and boxed it in. Defendants stayed next to the transport van until the arrival of marked units from the Sandoval County Sheriff's Department and the State Police. These units responded to a call for backup necessitated by Defendants' actions.

Defendants are charged with violating 18 U.S.C. § 111(a) which applies to “[w]hoever (1) forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated in section 1114 ... while engaged in or on account of the performance of official duties....” Detention officers from a county detention center that contracts with the Marshals Service are persons employed to assist a federal officer for purposes of this statute. *United States v. Murphy*, 35 F.3d 143, 145-46 (4th Cir. 1994), *cert. denied*, 513 U.S. 1135 (1995). The conduct outlined above is sufficient to allege the offense. See *United States v. Shedlock*, 62 F.3d 214 (8th Cir. 1995); *United States v. Hernandez*, 921 F.2d 1569 (11th Cir.), *cert. denied*, 500 U.S. 958 (1991); *United States v. Fernandez*, 837 F.2d 1031 (11th Cir.), *cert. denied*, 488 U.S. 838 (1988); *United States v. Bridges*, 551 F.2d 651 (5th Cir. 1977).

O R D E R

For the above stated reasons, Defendants' *Motion to Dismiss* is Denied.

Dated at Albuquerque this 7th day of January, 2002.


BRUCE D. BLACK
United States District Judge

Counsel for Plaintiff:

Robert D. Kimball, Assistant U.S. Attorney, Albuquerque, NM

Counsel for Defendants:

Luis Quezada: William A. L'Esperance, Albuquerque, NM

Sabino Quezada: Arthur E. Vargas, Las Vegas, NM